

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

THOMAS DAVID WAITON,  
Plaintiff,

v.

KERRI POST, et al.,  
Defendants.

Case No. 13-cv-02439-JST (PR)

**ORDER DENYING PLAINTIFF'S  
REQUEST TO STAY INITIAL  
PARTIAL FILING FEE**

Re: Dkt. No. 10

Plaintiff, a state prisoner currently incarcerated at the Sonoma County Main Adult Detention Facility, filed a pro se civil rights complaint pursuant to 42 U.S.C. § 1983. On August 27, 2013, the Court dismissed the complaint for failure to state a claim. The Court also granted plaintiff leave to proceed in forma pauperis under 28 U.S.C. § 1915(a) and ordered plaintiff to pay an initial partial filing fee of \$49.80. The Court ordered that the funds for the remainder of the filing fee will be taken from income to plaintiff's account in accordance with 28 U.S.C. § 1915(b)(1).

On September 4, 2013, plaintiff filed a letter with the Court in which plaintiff made new allegations and requested that the Court vacate its order of dismissal. On October 4, 2013, the Sonoma County Sheriff's Office sent the Court a letter explaining that plaintiff refused to allow the release of funds from his inmate trust account to the Court. On October 7, 2013, plaintiff filed a request to stay the Court's order directing payment of the filing fee so that he could seek an appeal of the Court's order of dismissal.

On October 16, 2013, the Court reopened the action finding that, based on plaintiff's new allegations contained in his September 4, 2013 letter, plaintiff might be able to state a claim for denial of access to the courts. The Court granted plaintiff leave to amend his complaint.

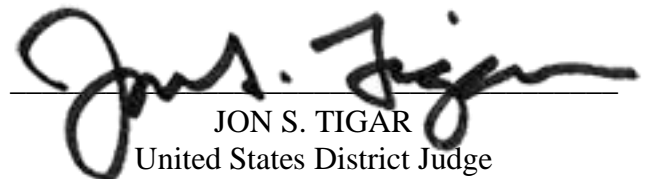
1 Accordingly, plaintiff's request to stay payment of the filing fee is DENIED. Plaintiff is  
2 advised that notwithstanding a prisoner's compliance with the requirements of § 1915(a) and the  
3 grant of IFP status, the prisoner is required to pay the full amount of the filing fee. See 28 U.S.C.  
4 § 1915(b)(1). The Ninth Circuit has held that the filing fee provisions of the Prison Litigation  
5 Reform Act (PLRA), which require even indigent prisoners to pay the entire filing fee in  
6 installments as funds become available in their trust accounts, do not violate a prisoner's  
7 constitutional rights to access the courts or to equal protection. See Taylor v Delatoore, 281 F.3d  
8 844, 848-50 (9th Cir. 2002).

9 Based on the foregoing, within **thirty (30) days** of this order, plaintiff must pay the initial  
10 partial filing fee of \$49.80. **Failure to do so will result in dismissal of this action.**

11 The Clerk is directed to send a copy of this order to plaintiff, the Sonoma County Sheriff's  
12 Office, and the Court's financial office.

13 **IT IS SO ORDERED.**

14 Dated: October 21, 2013

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16 JON S. TIGAR  
17 United States District Judge  
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